

ESTTA Tracking number: **ESTTA748419**

Filing date: **05/25/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Kufner Holding GmbH		
Entity	GmbH	Citizenship	Germany
Address	Baierbrunner Strasse 39 Munich, 81379 GERMANY		

Attorney information	Sheila Fox Morrison Davis Wright Tremaine LLP 1300 S.W. 5th Avenue, Suite 2400 Portland, OR 97201 UNITED STATES pdxtrademarks@dwt.com Phone:(503) 241-2300
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### Applicant Information

Application No	86604058	Publication date	04/26/2016
Opposition Filing Date	05/25/2016	Opposition Period Ends	05/26/2016
Applicant	Chong, Jorge P.O. Box Austin, TX 78720 UNITED STATES		

### Goods/Services Affected by Opposition

Class 024. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Ballistic resistant fabrics for use in the production of bulletproof and blast proof clothing, shoes and bullet proof and blast proof garments and shields

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3431270	Application Date	06/14/2006
Registration Date	05/20/2008	Foreign Priority Date	12/21/2005
Word Mark	X SHIELD		

Design Mark	
Description of Mark	The "X" is in grey. The color black appears on the curved line between the "X" design and the word "SHIELD". The color pink appears on the word "SHIELD" and the arrow.
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0  (Based on 44(d) Priority Application No. 30577274.0) Protective articles of clothing with radiation protection [ ; protective clothing for radiation protection comprised of finished woven, knitted, fleece, and non-woven linings and interlinings; protective clothing for radiation protection comprised of stiffening interlinings ]</p> <p>Class 024. First use: First Use: 0 First Use In Commerce: 0  (Based on 44(d) Priority Application No. 30576671.6) [ Woven and knitted fabrics, fleece and non-woven textile fabrics; textile used as lining for clothing, woven and knitted interlining fabrics as well as fleece and non-woven textile interlining fabrics; textile used as stiffening interlinings for articles of clothing sold by the yard; textile used as lining for clothing, woven and knitted interlining fabrics as well as fleece and non-woven textile interlining fabrics, all cut to size as linings; twisted horsehair cloth and hair interlining cloth as interlinings for articles of clothing; ] woven and knitted fabrics, fleece and non-woven textile fabrics with radiation protection; textile used as lining for clothing, woven and knitted interlining fabrics as well as fleece and non-woven textile interlining fabrics with radiation protection; textile used as stiffening interlinings with radiation protection for articles of clothing sold by the yard; textile used as lining for clothing, woven and knitted interlining fabrics as well as fleece and non-woven textile interlining fabrics, all cut to size as linings with radiation protection [ ; twisted horsehair cloth and hair interlining cloth as interlinings for articles of clothing with radiation protection ]</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0  [ (Based on 44(d) Priority Application No. 30576671.6) Finished textile linings for garments; finished textile interlinings of woven and knitted fabrics as well as fleece and non-woven fabrics for garments; finished textile stiffening interlinings for articles of clothing; articles of clothing, namely, dresses, pants, shorts, shirts, skirts, suits, sweaters, blouses, blazers, jackets, coats, headwear, footwear, socks, stockings, shoes, t-shirts, underwear, gloves, cuffs, ties, ponchos, pajamas, romper suits, overalls; twisted horsehair cloth and hair interlining cloth as finished textile prefabricated interlinings for articles of clothing ]</p>

Attachments	78908341#TMSN.png( bytes ) Notice of Opposition.pdf(60628 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Sandi Lyn/
Name	Sandi Lyn, Davis Wright Tremaine LLP
Date	05/25/2016

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5 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
6 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

7 KUFNER HOLDING GMBH, a German  
8 gesellschaft mit beschränkter haftung,

9 Opposer,

10 v.

11 CHONG, JORGE dba AQS3, LLC, a Texas  
12 limited liability company,

13 Applicant.

Opposition No.


Application Serial No. 86/604,058

NOTICE OF OPPOSITION

14 TO THE COMMISSIONER FOR TRADEMARKS  
15 TRADEMARK TRIAL AND APPEAL BOARD:

16 Kufner Holding GmbH, a gesellschaft mit beschränkter haftung of Germany, having a  
17 place of business at Baierbrunner Strasse 39, 81379, Munich, Germany (hereinafter “Opposer”),  
18 believes that it will be damaged by registration of the trademark shown in Application Serial  
19 No. 86/604,058, and hereby opposes the same. As grounds for the opposition, Opposer alleges  
20 as follows:

21 1. On information and belief, Chong, Jorge dba AQS3, LLC (hereinafter  
22 “Applicant”) is a Texas limited liability company, with an address of P.O. Box 202315, Austin,  
23 Texas 78720.


24 3. Opposer is the owner of U.S. Trademark Registration No. 3,431,270, for the  
25 design mark X SHIELD  for the “protective articles of clothing with radiation  
26 protection” in International Class 9 and “woven and knitted fabrics, fleece and non-woven  
27 textile fabrics with radiation protection; textile used as lining for clothing, woven and knitted  
interlining fabrics as well as fleece and non-woven textile interlining fabrics with radiation

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1 protection; textile used as stiffening interlinings with radiation protection for articles of clothing  
2 sold by the yard; textile used as lining for clothing, woven and knitted interlining fabrics as well  
3 as fleece and non-woven textile interlining fabrics, all cut to size as linings with radiation  
4 protection” in International Class 24. Said registration issued May 20, 2008, setting forth a  
5 priority filing date of December 23, 2005, in International Class 9 and December 21, 2005, in  
6 International Class 24 pursuant to 15 U.S.C. § 1126(d). Registration No. 3,431,270 is currently  
7 valid and subsisting.

8 4. The mark XSHIELD, shown in Application Serial No. 86/604,058, so resembles  
9 Opposer’s mark X SHIELD, that when used in association with the goods claimed by  
10 Application Serial No. 86/604,058, such use is to likely cause consumer confusion, or cause  
11 mistake, or deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12 5. Opposer will be damaged by the registration sought by Applicant insofar as the  
13 registration will be *prima facie* evidence of the validity of the registration, Applicant’s ownership  
14 of the mark XSHIELD for the goods claimed by Application Serial No. 86/604,058, and  
15 Applicant’s exclusive right to use the mark XSHIELD in association with the goods claimed by  
16 Application Serial No. 86/604,058 when, in fact, Applicant is not entitled to the full scope of  
17 such rights by virtue of Opposer’s prior registration of Opposer’s  mark for goods  
18 which may be sold in the same channels of trade and offered to the same purchasers as  
19 Applicant’s applied-for goods.

20 6. Based upon the foregoing, registration of the mark shown by Application Serial  
21 No. 86/604,058, filed April 21, 2015, is likely to cause injury and damage to Opposer.

22 WHEREFORE, Opposer respectfully requests that registration of the mark XSHIELD as  
23 shown by Application Serial No. 86/604,058, be denied under Section 2(d) of the Lanham Act,  
24 15 U.S.C. § 1052(d), and that this Opposition be sustained.

25 Please charge the filing fee of US\$300.00 to Deposit Account No. 04-0258 of Opposer’s  
26 counsel noted below.

1 Please direct all correspondence to Sheila Fox Morrison of Davis Wright Tremaine LLP  
2 at the following address:

3 Sheila Fox Morrison  
4 Davis Wright Tremaine LLP  
5 1300 S.W. 5th Avenue, Suite 2400  
6 Portland, Oregon 97201

7 Please direct all telephone calls to Sheila Fox Morrison at (503) 778-5311.

8 DATED this 25<sup>th</sup> day of May, 2016.

9 Davis Wright Tremaine LLP  
10 Attorney for Kufner Holding GmbH

11 By

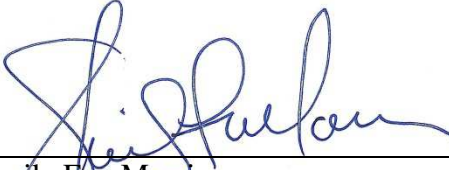
  
12 \_\_\_\_\_  
13 Sheila Fox Morrison  
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**CERTIFICATE OF FILING**

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 86/604,058 for the mark XSHIELD is being filed with the Trademark Trial and Appeal Board using the ESTTA filing system of the U.S. Patent and Trademark Office on the below date.

Date: May 25, 2016


  
Sheila Fox Morrison

**CERTIFICATE OF SERVICE**

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 86/604,058 for the mark XSHIELD is being duly served upon the Applicant by mailing a copy thereof via the U.S. Postal Service in a sealed envelope as first-class mail with postage thereupon fully prepaid and addressed to the following address:

Jorge Chong  
dba AQS3, LLC  
P.O. Box 202315  
Austin, Texas 78720

Date: May 25, 2016

  
Sheila Fox Morrison